

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

No. 5:10-CT-3146-BO

BILLY RAY LOCKLEAR,  
Plaintiff,

v.


SANDRA F. THOMAS, et al.,  
Defendants.

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ORDER

FILED

OCT 08 2010

DENNIS P. MARONE, CLERK  
US DISTRICT COURT, EDNC  
BY  DEP CLK

Plaintiff has filed this civil rights action pursuant to 42 U.S.C. § 1983. The claims survive a frivolity review pursuant to 28 U.S.C. § 1915(e)(2) and are allowed to proceed. Accordingly, the Clerk is DIRECTED to maintain management of the complaint.


Plaintiff is also before the court with a pending motion for appointment of counsel. (D.E. # 3) The motion for the appointment of counsel is DENIED. There is no constitutional right to counsel in civil cases. Under the *in forma pauperis* statute, 28 U.S.C. § 1915(e)(1), a court may request an attorney to represent an indigent litigant. However, under the statute, a court cannot force an attorney to accept an appointment. Court intervention to procure representation is typically reserved for cases presenting "exceptional circumstances," determined by examining the claims and the litigant's abilities. Presently, this court finds that no exceptional circumstances exist.

Lastly, the court does not intervene in the initial requests for the production of documents, affidavits, and other discovery material. The plaintiff, himself, must request the documents and admissions from the appropriate parties as required and outlined in the Federal

Rules of Civil Procedure. Therefore, the motion and filings seeking discovery are DENIED.

(D.E. # 7 and # 8)

Accordingly, the complaint survives the frivolity review, the motion for appointment of counsel is DENIED (D.E. # 3), and the motion and request for the production of documents are DENIED (D.E. # 7 and 8). SO ORDERED, this the 8 day of <sup>October</sup>~~September~~ 2010.

  
TERRENCE W. BOYLE  
UNITED STATES DISTRICT JUDGE